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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,105	05/14/2002	Kazunori Saegusa	020047	2106

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EXAMINER	
MULLIS, JEFFREY C	

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/030,105	Applicant(s) SAEGUSA ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 March 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *3* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

[illegible]erial starting in applicants' specification at page 3 line [illegible]ears to mirror the claims and contains what appears to be 2[illegible]raphs numbered 1-20. While the disclosure starting at page [illegible]20 appears to be somewhat disjointed from the rest of the s[illegible]cation and is awkward, it appears to be part of the disc[illegible]and applicants do not appear to be presenting claims. Appli[illegible]may redraft this section of the specification if they wish. [illegible]ver this is not a requirement.

[illegible]nts' Abstract is not in the form of a single paragr[illegible] Correction is required.

[illegible]1-20 are rejected under 35 U.S.C. § 112, second paragr[illegible]as being indefinite for failing to particularly point out [illegible]cinctly claim the subject matter which applicants regar[illegible]he invention.

[illegible]rm "ratio" as it appears in the claims makes no sense give[illegible]a ratio implies relative amount of two different quanti[illegible]but no such pairs of quantities are recited by the instan[illegible]ims. It is suggested that the phrase "at a ratio" be repl[illegible]h --in an amount-- if that is what is intended.

[illegible]rm "particle size" or "mean particle size" is unclear give[illegible]particle sizes exist as a distribution. Therefore it is n[illegible]y to qualify the particle sizes as a type of dist[illegible]n, namely volume or weight average or number average part[illegible]e. However applicants' claims do not recite the type

of d[illegible]tion of particle sizes intended and are therefore uncl[illegible]ince particle sizes vary depending on the type of dist[illegible]n intended, applicants' particle sizes are unclear.

[illegible]rm "occupies" implies the presence in a volume of spac[illegible] area such as does not appear to be applicants' inte[illegible]n the claims. It is suggested that the term "occ[illegible]in the claims be replaced with "contains" if that is what [illegible]ended.

[illegible]19 makes no sense since it refers to "composition desc[illegible]n above-described 1" without reciting what the above desc[illegible] is. If applicants intend that the above described 1 is c[illegible] then applicants should insert the word --claim-- befo[illegible]word "1". Claim 20 is similarly defective.

[illegible]llowing is a quotation of the appropriate paragraphs of 3[illegible]. § 102 that form the basis for the rejections under this [illegible]n made in this Office action:

[illegible]on shall be entitled to a patent unless --

[illegible]e invention was patented or described in a printed [illegible]tion in this or a foreign country or in public use or [illegible]e in this country, more than one year prior to the [illegible]f application for patent in the United States.

[illegible]llowing is a quotation of 35 U.S.C. § 103(a) which form[illegible]asis for all obviousness rejections set forth in this Offi[illegible]on:

[illegible]patent may not be obtained though the invention is not [illegible]cally disclosed or described as set forth in section [illegible] this title, if the differences between the subject

[illegible] sought to be patented and the prior art are such that [illegible]bject matter as a whole would have been obvious at the [illegible]e invention was made to a person having ordinary [illegible]in the art to which said subject matter pertains. [illegible]bility shall not be negated by the manner in which [illegible]vention was made.

[illegible] 1-20 are rejected under 35 U.S.C. 102(b) as anti[illegible] by or, in the alternative, under 35 U.S.C. 103(a) as obvi[illegible] Fleischer et al. (USP 5,256,733).

[illegible]er et al. disclose a composition containing two diff[illegible]pulations of methyl methacrylate grafted polyb[illegible]e rubber of particle sizes 0.1 microns and 0.45 micro[illegible]bte Example 12 and Table 1 and that the smaller parti[illegible]re present in a major amount by weight, i.e. greater than [illegible]sed on the amount of the two particles. Note column 8 line[illegible] where it is disclosed that the particle size distri[illegible]ns are weight average at column 5 lines 5-10. If appli[illegible] particle size distributions are volume average parti[illegible]e, then it would appear that Fleischer et al. reas[illegible]nticipate the claims but in any case patentees disc[illegible]t the particle sizes may be lower and higher at colu[illegible]es 43-60 and would therefore appear to embrace appli[illegible] particle sizes even if applicants' particle sizes are othe[illegible]olume average particle sizes.

[illegible]e reference discloses all the limitations of a claim exce[illegible]perty or function, and the Examiner cannot determine whet[illegible]ot the reference inherently possesses properties

which pate or render obvious the claimed invention, basis exis shifting the burden of proof to applicant. Note In re Fitzg et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980 MPEP § 2112-2112.02.

1-20 are rejected under 35 U.S.C. § 103(a) as being unpa over Shigeto (JP 06-240100, cited by applicants).

et al. disclose a composition containing two graft copol in which 0-20 weight percent of another vinyl monomer "c" grafted to rubbery polymers. Note the abstract. Note the s in the patent which in all cases contain a small graf le within the metes and bounds of applicants' small graft le and another large graft particle which is within the nd bounds of the particle size of applicants' larger graft ticle. Note also that while Example B-16 discloses a graf ticle in which the graft shell containing methyl meth , there are no specific examples in which B-16 is comb h another graft copolymer in which the graft shell is also methacrylate or methyl methacrylate containing as requ applicants' claims. However note that paragraph 26 of t it discloses that methyl methacrylate may be present as i rafting component "b" and therefore patentees disclose that methacrylate may be a component for both graft shells as r by the instant claims.

d have been obvious to a practitioner having ordinary skil art at the time of the invention to use methyl meth in both graft shells, i.e. to graft rubbers with methy acrylate based on the teachings of Shigeto et al. sinc o et al. specifically discloses that this may be done and i xpectation of adequate results absent any showing of surp r unexpected results.

gard to the references indicated as being in the "X" cate ese references do not teach or suggest applicants' comb of amounts of components.

quiry concerning this communication or earlier comm ns from the examiner should be directed to Jeffrey Mull telephone number is (703) 308-2820. The examiner can be reached on Monday-Friday from 9:30 to 6:30.

empts to reach the examiner by telephone are unsu l, the examiner's supervisor, James Seidleck, can be reac (703) 308-2462. The fax phone number for this Group is b inal (703) 872-9310 and after final (703) 8729311.

uiry of a general nature or relating to the status of this ation or proceeding should be directed to the Group rece whose telephone number is (703) 308-2351.

J. M c

Seri[illegible]0/030,105

Art [illegible].711

Apri[illegible]03

Primary Examiner
Art Unit 1711